

MEMORIAL

OF THE

CHAMBER OF COMMERCE OF NEW YORK,

ON THE

Subject of international law as to damages resulting from collisions at sea.

FEBRUARY 23, 1860.—Referred to the Committee on the Judiciary. Motion to print referred to the Committee on Printing.

FEBRUARY 28, 1860.—Report in favor of printing the usual number submitted, considered, and agreed to.

CHAMBER OF COMMERCE,
New York, February 16, 1860.

*To the honorable the Senate and
House of Representatives of the United States:*

The memorial of the Chamber of Commerce of New York, respectfully represents that the frequent occurrence of collisions at sea, and the great value of property destroyed by these unavoidable accidents, have occasioned deep anxiety in the minds of merchants and shipowners.

They perceive that in a class of disasters, not necessarily implying more culpability than the ordinary accidents of the sea, they are involved in liabilities which might prove ruinous to men of wealth, while they have no power to prevent or control such disasters.

At the present time these losses are adjudicated by local laws, according to the place in which the trials may take place, and by laws differing in their provisions in different countries. These decisions are often oppressive, and perhaps as frequently erroneous as to the assumed facts, it being difficult from the very nature of these accidents to arrive at the truth, especially in cases where the testimony is conflicting.

Your memorialists regard the law of 1851, limiting the liability of shipowners, in case of collision, as being but partial as a relief, while it is attended with burdensome provisions, and it would still leave the innocent shipowner involved in enormous losses, against which he could not have guarded by any exercise of prudence or forethought.

Your memorialists believe that a law leaving the loss "where it lights," if adopted by this government, would be adopted also by other governments, if proposed to them in the course of friendly negotiations. They reach this conclusion from the evident injustice of the prevailing laws, and in the belief that, when once brought seriously to the

attention of the world, the absurdity of persisting in the present system would be apparent.

If it should be alleged that without these severe liabilities, these accidents would be more frequent, your memorialists would point to a better remedy, to consist in severe punishment, by fine and imprisonment of the offending commander and officers of the ship causing the loss, where culpable negligence could be proved. Your memorialists would suggest, too, that a regard to personal safety would always operate as a motive to caution in the commanders and officers of ships.

In the ordinary usage of trade, the underwriter indemnifies the owner of property for loss by collision. The right to claim from the owners of the offending or mutually offending ship, cannot be regarded by them as of much value, and it is in truth of but little value, from the difficulty of obtaining testimony to establish a claim.

Believing that the present provisions of law are not needed for the prevention of loss by collision, and that they are burdensome and unjust in their operation, your memorialists trust that the subject will receive the early attention of your honorable bodies, and that redress will be granted by proper amendments of the existing laws, and by negotiation with foreign powers for their coöperation.

The greatly altered state and usages of commerce of late years have impressed on the minds of your memorialists the conviction that the common-law liabilities of ship-owners as carriers should be greatly modified, if not wholly abrogated, by statutory enactments.

So far as sea risks are concerned they can be protected, and are usually protected by insurance; and the underwriter can, in all cases, through his inspector, ascertain the quality and character of ships and their commanders. Your memorialists, therefore, ask the attention of your honorable bodies to the needed measures of relief in this class of their liabilities which are brought to view in the facts embraced in the accompanying report of the committee of this chamber.

[L. s.] By order of the chamber.

P. PERIT, *President.*

J. SMITH HOMANS, *Secretary.*

CHAMBER OF COMMERCE OF THE STATE OF NEW YORK,
New York, February 17, 1860.

SIR: I am instructed to forward to you the inclosed memorial to the Senate and House of Representatives, on the subject of international law as to damages resulting from collisions at sea, requesting that the memorial may be brought to the consideration of the Senate at an early day.

I add also a copy of the report of a committee of this chamber on the same subject.

Your obedient servant,

J. SMITH HOMANS, *Secretary.*

Hon. WILLIAM H. SEWARD.